

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KENNETH WILLIAMS,

Plaintiff,

v.

K. FOX, et al.,

Defendants.

No. 2:21-CV-0952-JAM-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's complaint. See ECF No. 1.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a "... short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff's claim and the grounds upon which it

1 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because Plaintiff must allege
 2 with at least some degree of particularity overt acts by specific defendants which support the
 3 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is
 4 impossible for the Court to conduct the screening required by law when the allegations are vague
 5 and conclusory.

6 7 **I. PLAINTIFF'S ALLEGATIONS**

8 Plaintiff names the following as defendants: (1) K. Fox, a Correctional Officer at
 9 California State Prison – Solano (CSP-Sol.); (2) J. Wartson, a Correctional Officer at CSP-Sol.;
 10 (3) D. Letourneau, a Correctional Officer at CSP-Sol.; and (4) A. Scotland, a Correctional
 11 Lieutenant at CSP-Sol. See ECF No. 1, pg. 2. Plaintiff raises four claims for relief, all related to
 12 prison disciplinary proceedings. See generally ECF No. 1. Plaintiff states his lawsuit concerns
 13 “erroneous guilt findings and dispositions of prison sentence credit loss, which resulted from each
 14 of the four RVRs [Rules Violation Reports] that were issued against him for the alleged rules
 15 violations.” Id. at 3. As to Claim I, Plaintiff states he was assessed “180 days loss of sentence
 16 credits.” Id. In Claim II, Plaintiff states he was assessed “90 days loss of sentence credits. . . .”
 17 Id. at 6. In Claim III, Plaintiff states his injury includes “credit loss from his sentence. . . .” Id. at
 18 8. Finally, in Claim IV, Plaintiff contends he suffered “sentence credit loss. . . .” Id. at 10.
 19 Among other things, Plaintiff seeks expungement of each of the four challenged disciplinary
 20 guilty findings. See id. at 12.

21 22 **II. DISCUSSION**

23 When a state prisoner challenges the legality of his custody and the relief he seeks
 24 is a determination that he is entitled to an earlier or immediate release, such a challenge is not
 25 cognizable under 42 U.S.C. § 1983 and the prisoner’s sole federal remedy is a petition for a writ
 26 of habeas corpus. See Preiser v. Rodriguez, 411 U.S. 475, 500 (1973); see also Neal v. Shimoda,
 27 131 F.3d 818, 824 (9th Cir. 1997); Trimble v. City of Santa Rosa, 49 F.3d 583, 586 (9th Cir.
 28 1995) (per curiam). Thus, where a § 1983 action seeking monetary damages or declaratory relief

1 alleges constitutional violations which would necessarily imply the invalidity of the prisoner's
2 underlying conviction or sentence, or the result of a prison disciplinary hearing resulting in
3 imposition of a sanction affecting the overall length of confinement, such a claim is not
4 cognizable under § 1983 unless the conviction or sentence has first been invalidated on appeal, by
5 habeas petition, or through some similar proceeding. See Heck v. Humphrey, 512 U.S. 477, 483-
6 84 (1994) (concluding that § 1983 claim not cognizable because allegations were akin to
7 malicious prosecution action which includes as an element a finding that the criminal proceeding
8 was concluded in plaintiff's favor); Butterfield v. Bail, 120 F.3d 1023, 1024-25 (9th Cir. 1997)
9 (concluding that § 1983 claim not cognizable because allegations of procedural defects were an
10 attempt to challenge substantive result in parole hearing); cf. Neal, 131 F.3d at 824 (concluding
11 that § 1983 claim was cognizable because challenge was to conditions for parole eligibility and
12 not to any particular parole determination); cf. Wilkinson v. Dotson, 544 U.S. 74 (2005)
13 (concluding that § 1983 action seeking changes in procedures for determining when an inmate is
14 eligible for parole consideration not barred because changed procedures would hasten future
15 parole consideration and not affect any earlier parole determination under the prior procedures).

16 In particular, where the claim involves the loss of good-time credits as a result of
17 an adverse prison disciplinary finding, the claim is not cognizable. See Edwards v. Balisok, 520
18 U.S. 641, 646 (1987) (holding that § 1983 claim not cognizable because allegations of procedural
19 defects and a biased hearing officer implied the invalidity of the underlying prison disciplinary
20 sanction of loss of good-time credits); Blueford v. Prunty, 108 F.3d 251, 255 (9th Cir. 1997); cf.
21 Ramirez v. Galaza, 334 F.3d 850, 858 (9th Cir. 2003) (holding that the favorable termination rule
22 of Heck and Edwards does not apply to challenges to prison disciplinary hearings where the
23 administrative sanction imposed does not affect the overall length of confinement and, thus, does
24 not go to the heart of habeas); see also Wilkerson v. Wheeler, 772 F.3d 834 (9th Cir. 2014)
25 (discussing loss of good-time credits).

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1 Here, it would seem that Plaintiff's claims are all barred under the favorable
2 termination rule outlined above. Plaintiff clearly challenges four disciplinary proceedings, each
3 of which resulted in a loss of good-time credits. Given the relief Plaintiff seeks, it is also clear
4 that none of the adverse disciplinary findings has been invalidated. What is not clear, however, is
5 whether the administrative sanctions imposed affect the overall length of his sentence, at least in
6 part because Plaintiff does not state what sentence he is serving. Plaintiff will be provided an
7 opportunity to amend his complaint to allege additional facts related to his sentence and whether
8 the loss of good-time credits affects the duration of his confinement.

10 III. CONCLUSION

11 Because it is possible that the deficiencies identified in this order may be cured by
12 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire
13 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is
14 informed that, as a general rule, an amended complaint supersedes the original complaint. See
15 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to
16 amend, all claims alleged in the original complaint which are not alleged in the amended
17 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if
18 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make
19 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be
20 complete in itself without reference to any prior pleading. See id.

21 If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the
22 conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See
23 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
24 each named defendant is involved, and must set forth some affirmative link or connection
25 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
26 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

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1 Finally, Plaintiff is warned that failure to file an amended complaint within the
2 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at
3 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply
4 with Rule 8 may, in the court's discretion, be dismissed with prejudice pursuant to Rule 41(b).
5 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's complaint is dismissed with leave to amend; and
- 8 2. Plaintiff shall file a first amended complaint within 30 days of the date of
9 service of this order.

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11 Dated: August 24, 2021



12 DENNIS M. COTA
13 UNITED STATES MAGISTRATE JUDGE
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